

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:  
WS-15J

**MEMORANDUM**

**DATE:** August 10, 2000

**SUBJECT:** List of Water Bodies - Fond du Lac Reservation

**FROM:** Bob Newport *Bob Newport*  
State and Tribal Programs Branch (WS-15J)

**TO:** File

**Background**

As part of the review of the Fond du Lac Band's water quality standards (WQS), EPA Region 5 undertook a review of the list of the surface waters specifically identified in the standards. The purpose of the review was to cross-check the list of waters in the WQS with a list of water bodies on the Fond du Lac Reservation that had been provided by BIA in 1996 (see Attachment 1). EPA had requested this information from BIA to aid the Agency in completing its review of the Band's Clean Water Act Section 303 program eligibility application.

The initial review of the lists of the surface waters found some differences, and further investigation was undertaken to assess the differences and ensure the surface waters for which the Band proposed to establish water quality standards are located within the exterior boundaries of the Reservation (over which the Band has Section 303 jurisdiction). Review activities included discussions with the Band, detailed reviews of watershed and Reservation maps, and one site visit to the Reservation. The purpose of this memo is to summarize the results of these review activities.

**Findings**

A primary focus of the review was on water bodies included on the Band's list which were not specifically identified on the BIA list circa 1996. In the last 3-4 years the Fond du Lac Band has been carrying out an extensive water quality monitoring program, to characterize baseline conditions and gather site specific information needed for use designations and the development of water quality criteria. As a result of the Band's field activities, the environmental staff has been able to update and refine the list of water resources on the Reservation. This accounts for how some water bodies have been added to the list of waters to be covered under the Band's WQS.

Many of the updates to the list of waters reflected the need to include man-made channels that are on the Reservation (particularly in the Stoney Brook sub-watershed). These man-made channels have been there for many years and now provide habitat for aquatic and riparian communities. It is appropriate that these water bodies be covered by the Band's water quality standards.

In addition to waters that were included on the Band's list which were not specifically identified on the BIA list, there were instances where the opposite was true--where there was a segment of a watershed on the BIA list from 1996 that was not on the list in the Band's WQS. The outcome from the review of these cases was either: (1) that the surface water is no longer in existence (e.g., First Lake, in 49N, 17W, 22 is no longer inundated); or (2) the segment of a watershed has been added into the Band's WQS.

Attachment 2 is a table that reconciles BIA's 1996 list with the list of waters in the Fond du Lac Band's WQS. Attachment 3 is the updated list of water bodies for which the Band proposes to establish WQS. **Region 5's review activities has confirmed that the list of water bodies for which the Band proposes to establish WQS (Attachment 3) is an up-to-date identification of the surface waters of the Fond du Lac Reservation.** Please note that on the west and lower east sides of the Fond du Lac Reservation, the Reservation boundaries transect the sections. For these sections, the Attachment 3 should be interpreted that the Band will be responsible for the portions of the water bodies that are within the exterior boundaries (not for the entire sections).

Attachments (3)

cc: Nancy Costa, FdL Water Quality Program Manager  
Rodger Field, Office of Regional Counsel  
Kathy Mayo, Standards and Applied Sciences Branch



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

MAY 13 1996

REPLY TO THE ATTENTION OF:

C-29A

**MEMORANDUM**

SUBJECT: Surface Waters of the Fond du Lac Reservation

FROM: *Marc M. Radell*  
Marc M. Radell  
Associate Regional Counsel

THROUGH: Gail C. Ginsberg  
Regional Counsel *GCG*

TO: Valdas V. Adamkus  
Regional Administrator

This memorandum addresses issues raised by the Minnesota Pollution Control Agency ("MPCA") in Attachment B to its September 1, 1995, comments on the Fond du Lac Band's application for treatment as a state for the water quality standards program. As indicated in our February 27, 1996, memorandum to you regarding the authority of the Band to regulate the quality of Reservation waters, the Office of Regional Counsel referred these issues, which concern the legal description of Reservation surface waters, to the Bureau of Indian Affairs ("BIA") for resolution. On April 19, 1996, ORC received a response from BIA endorsing MPCA's comments and making one additional comment [Attachment 1, map excluded]. Accordingly, for purposes of the U.S. EPA-authorized water quality standards program, the legal descriptions contained in Enclosure 2 of the Band's application [Attachment 2] for the following waters are modified to read as follows:

Lake Name (MDNR Lake #)	Legal Description (Twn/Rge/Sct)
First Lake (9-85)	49N/17W/21,22
Jascari Lake (9-50)	48N/19W/1,2 49N,19W/36
Mud Lake (9-53) Also known as Miller Lake	49N/19W/13,14,23



Pat Martin Lake  
(9-12)  
Unnamed by MDNR

49N/17W/6

Perch Lake  
(9-36)

48N/18W/6  
48N/19W/1  
49N/18W/29,30,31  
49N/19W/36

Watercourse Name

Legal Description

Annamhasung Creek

48N/19W/2  
49N/19W/26,E½27,E ½34,35

Martin Branch  
(Also known as  
Joe Martin Branch; or  
Joe Martin Creek.)

50N/18W/3,4,5,7,8  
50N/19W/12

Otter Creek

48N/17W/W½3  
49N/17W/19,20,28,29,30,32,33,W½34  
49N/18W/25,26

Simian Creek

49N/18W/1,2,3,10  
50N/17W/20,21,22,29,30,31,32  
50N/18W/36

Tributary to  
Simian Creek

49N/17W/6

Tributary to  
Simian Creek

50N/17W/30,31  
50N/18W/25

Squaw Creek

49N/17W/4,9,16,18,20,21

Stoney Brook  
(Also known as Stoney  
Brook River)

49N/18W/6,7,17,18,19,30  
49N/19W/12,25  
50N/18W/3,4,9,16,21,28,31,32,33  
51N/18W/34,35

Tributary to  
Stoney Brook

50N/19W/23,24,25

St. Louis River

49N/17W/3,4,W½10

50N/17W/7,15,16,17,18,22,26,27,33,34

50N/18W/1,2,12

51N/18W/27,28,29,30,34,35,36

51N/19W/25,26,E½27

We recommend that the Water Division forward this memorandum to appropriate Band and State personnel. If you have any questions or comments in this matter, please contact Marc at 886-7948.

Attachments

cc: Jo-Lynn Traub

Attachment 2

*Water Bodies on the Fond du Lac Reservation*

Legal Descriptions from Fond du Lac Band's WQS (Circa 1999)	Legal Descriptions from BIA List (Circa 1996)	Discrepancy	Notes/Explanation
First Lake 49N, 17W, 21	First Lake 49N, 17W, 21,22	Section 22 was not included on the list in the Band's WQS.	Road work was done in this area with the result that the portion of First Lake in Section 22 is no longer inundated (i.e., there is no longer surface water to protect in Section 22). WQS list is correct.
Miller (Mud) Lake 49N, 19W, 13,14	Miller (Mud) Lake 49N, 19W, 13,14,23	Section 23 was not specifically included on the list in the Band's WQS.	Section 23 has been added to the list of water bodies in the Band's WQS.
Annamhasung 48N,19W,2  49N,19W, 26,27,34,35	Annamhasung 48N,19W,2  49N,19W,26,E½27,E½34,35	OK  BIA list included the east ½ of 27 and east ½ of 34, whereas the table in the Band's WQS does not include the character "½".	The issue for this listing is similar to discrepancies for other water bodies near the western edge of the FdL Reservation, and is typographical in nature. BIA used the character "½" in its list to identify sections where the Reservation boundary transects the section. The character "½" is not included on the Band's WQS table; however, the inclusion of this township/range/section on the Band's WQS list is with the understanding that the Band's standards will apply to the portion of the water body in that section that is within the exterior boundaries of the Reservation.

Legal Descriptions from Fond du Lac Band's WQS (Circa 1999)	Legal Descriptions from BIA List (Circa 1996)	Discrepancy	Notes/Explanation
Otter Creek 48N,17W,3	Otter Creek 48N,17W,W½3	BIA list included the west ½ of section 3, whereas the table in the Band's WQS does not include the character "½".	This issue is similar to the discussion above for Annamhasung Creek regarding the character "½".
49N,17W,19,20,28,29,30,32, 33	49N,17W,19,20,28,29,30,32, 33,W½34	West ½ Section 34 was not specifically listed in the Band's WQS.	Section 34 has been added to the list of water bodies in the Band's WQS as well as 49N, 18W, Sections 25 and 26--these are all in the boggy headwaters area of the Creek.
Fond du Lac Creek 49N,17W,4, 9, 16, 17, 18, 20, 21	Squaw Creek 49N,17W,4,9,16,18,20,21	The list of waterbodies in the Band's WQS included Section 17, whereas BIA did not include this section in its list.	Section 17 was removed from the list of water bodies in the Band's WQS.
Stoney Brook 48N,19W,1,2	Stoney Brook	BIA does not list 48N,19W,1,2 as having Reservation surface waters in the Stoney Brook sub-watershed.	Sections 1 and 2 are on the Reservation, and have surface waters in the Stoney Brook sub- watershed. These sections may not have been listed by BIA because the water bodies in these sections are man-made channels.
49N,18W,6,7,17,18,19,30	49N,18W,6,7,17,18,19,30	OK	These channels have been there for many years and now provide habitat for aquatic and riparian communities; including these water bodies in the Band's WQS is appropriate. WQS list is correct.



Legal Descriptions from Fond du Lac Band's WQS (Circa 1999)	Legal Descriptions from BIA List (Circa 1996)	Discrepancy	Notes/Explanation
Stoney Brook (continued) 49N,19W,1,2,3,11,12,14,15, 22,23,24,25,26,27,35	49N,19W,12,25	BIA does not list 49N,19W,1,2,3,11,14, 15, 22, 23,24,26,27,35 as having Reservation surface waters in the Stoney Brook sub- watershed.	These sections are on the Reservation, and parts of these sections are in the Stoney Brook sub-watershed. They may not be listed by BIA because the sections do not have named tributaries to the Stoney Brook River, and/or the water bodies in these sections are man-made channels. WQS list is correct  Same as above. WQS list is correct
50N,18W,3,4,9,16,21,28,31, 32,33	50N,18W,3,4,9,16,21,28,31, 32,33,	OK	
50N,19W,14,23,24,25,34,36	Tributary to Stoney Brook 50N,19W,23,24,25	BIA does not list 50N,19W,14,34,36 as having Reservation surface waters in the Stoney Brook sub-watershed.	
51N,18W,34,35	51N,18W,34,35	OK	
St. Louis River 49N,17W,3,4,10	St. Louis River 49N,17W,3,4,W½10	BIA list included the west ½ of section 10, whereas the table in the Band's WQS does not include the character "½".	This section is on eastern boundary of Reservation. This issue is similar to the discussion above for Annamhasung Creek regarding the character "½". The Band's WQS will cover only the portion of the watershed in this section that is within the exterior boundaries of the Reservation.
50N,17W,7,15,16,17,18,22,2 6,27,33,34	50N,17W,7,15,16,17,18,22,2 6,27,33,34	OK	
50N,18W,1,2,12,	50N,18W,1,2,12	OK	
51N,18W,27,28,29,30,34,35, 36	51N,18W,27,28,29,30,34,35, 36	OK	
51N,19W,25,26,27	51N,19W,25,26,E½27	BIA list included the east ½ of section 27, whereas the table in the Band's WQS does not include the character "½".	

August 10, 2000



## CHAPTER 4

## DESIGNATED USES APPLICABLE TO RESERVATION WATERS

	TOWNSHIP	RANGE	SECTION	DESIGNATED USE
<b>LAKES</b>				
Bang	48N	19W	1, 2	B, C2, D1, D2, E1, F, G, H
Big Lake	49N	18W	20, 21, 28, 33	B, C2, C3, D1, D2, F, G, H
Cedar	49N	18W	10, 15	B, C2, D1, E1, F, G, H
Dead Fish*	49N	19W	1, 12	B, C2, D1, E1, F, G, H
East Twin	50N	18W	23, 24, 25, 26	B, C2, D1, E1, F, G, H
First Lake	49N	17W	21	B, F, G, C2, D2, H
Hardwood	49N	18W	5, 6	B, C2, D1, E1, F, G, H
Jaskari*	48N 49N	19W 19W	1, 2, 36	B, C2, D1, E1, F, G, H
Lac	49N	19W	12, 13	B, C2, D1, E2, F, G, H
Lost	50N	18W	29, 30	B, C2, C3, D1, D2, F, G, H
Martin (Jo Martin)	50N	19W	12	B, C1, C2, C3, D1, D2, E2, F, G, H
Miller (Mud)*	49N	19W	13, 14, 23	B, C2, D1, E1, F, G, H

	TOWNSHIP	RANGE	SECTION	DESIGNATED USE
Pat Martin	49N	17W	6	B, C2, C3, D1, E1, F, G, H
Perch*	48N 48N 49N 49N	18W 19W 18W 19W	6 1 29, 30, 31 36	B, C2, C3, D1, E1, E2, F, G, H
Rice Portage*	49N	19W	25, 26	B, C2, D1, E1, E2, F, G, H
Side	50N	18W	32	B, D1, E1, F, G, H, C2
Simian	50N	17W	29	B, C2, C3, D1, E1, F, G, H
Sofie	49N	18W	29, 32	B, C2, C3, D1, F, G, H
Spring	48N	19W	1	B, C2, D1, E1, F, G, H
Spruce	49N	19W	27	B, C2, D1, E1, F, G, H
Third Lake	49N	17W	21	B, C2, C3, D1, D2, F, G, H
West Twin	50N	18W	23, 26	B, C2, C3, D1, D2, E1, F, G, H
Wild Rice*	48N	18W	3	B, C2, D1, E1, F, G, H
Second Lake	49N	17W	21	B, E1, C2, D2, F, G
<b>STREAMS</b>				
Annamhasung	48N 49N	19W 19W	2 26, 27, 34, 35	B, C2, D1, F, H, G

	TOWNSHIP	RANGE	SECTION	DESIGNATED USE
Martin Branch	50N	18W	3, 4, 5, 7, 8	B, C1, C3, D1, E2, F,
	50N	19W	12	G, H
Otter Creek	48N	17W	3	B, C1, C3,
	49N	17W	19, 20, 28, 29, 30, 32, 33, 34	D1, E2, F, G, H
	49N	18W	25, 26	
Simian Creek	49N	17W	6	B, C2, D1,
	49N	18W	1, 2, 3, 10	F, G, H
	50N	17W	20, 21, 22, 29, 30, 31 32	
	50N	18W	25, 36	
Spring Creek	50N	18W	4, 5	B, C2, D1, F, G, H
Fond du Lac Creek	49N	17W	4, 9, 16, 18, 20, 21	B, C1, D1, F, G, H
Stoney Brook	48N	19W	1, 2	B, C1, C2,
	49N	18W	6, 7, 17, 18, 19, 30	C3, D1, F, G, H
	49N	19W	1, 2, 3, 11 12, 14, 15 22, 23, 24 25, 26, 27 35	
	50N	18W	3, 4, 9, 16, 21 28, 31, 32, 33	
	50N	19W	14, 23, 24, 25 34, 36	
	51N	18W	34, 35	

	TOWNSHIP	RANGE	SECTION	DESIGNATED USE
St. Louis River	49N	17W	3, 4, 10	B, C2, C3, D1, D2, E2, F, G, H
	50N	17W	7, 15,	
			16, 17,	
			18, 22,	
			26, 27,	
			33, 34	
	50N	18W	1, 2, 12	
	51N	18W	27, 28,	
			29, 30,	
			34, 35,	
			36	
	51N	19W	25, 26,	
			27	

\* Potential Outstanding Reservation Resource Water

Waters not listed above will have the following designated uses:  
B, C2\*, D2, F\*, G\*, H\* (\*if open water present).

August 2000